

CALIFORNIA	Legal Authority
	GENERAL DUTIES AND ACTIVITIES OF THE CHILD'S LEGAL REPRESENTATIVE
<p>1. General Duties: <i>Timely appointment, mandatory or discretionary, attorney or lay person, represent child's interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</i></p>	<ul style="list-style-type: none"> - Court shall appoint counsel unless court finds child would not benefit from counsel. Cal. Welf. & Inst. Code §§317(c). - Primary responsibility of counsel is to advocate for protection, safety, and physical and emotional wellbeing of child. Cal. Welf. & Inst. Code § 317(c). - The counsel for the child shall be charged in general with the representation of the child's interests...in any case in which the child is four years of age or older, counsel shall interview the child to determine the child's wishes and to assess the child's well-being, and shall advise the court of the child's wishes. Counsel for the child shall not advocate for the return of the child if, to the best of his or her knowledge, that return conflicts with the protection and safety of the child. In addition counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. Cal. Welf. & Inst. Code § 317(e). - Counsel may invoke privileges on behalf of child (but must have informed consent if court finds child to be of sufficient age and maturity to consent, which is presumed if child is over 12, subject to rebuttal of clear and convincing evidence). If counsel invoked privilege, child may waive it but if child invokes, counsel may not waive it. Counsel may have full access to child's records. Cal. Welf. & Inst. Code § 317(f). - CAPTA GAL (either attorney or CASA) must be appointed for the child who is the subject of the dependency petition. Cal. Welf. & Inst. Code § 326.5 - Child advocate appointed by the court...shall have same duties and responsibilities as a GAL and be trained by and function under the auspices of a CASA GAL program, formed and operating under guidelines established by the National CASA Association. Cal. Welf. & Inst. Code §356.5. - GAL not required for minor parent of the child who is the subject of the dependency petition unless minor parent is unable to understand nature of the proceedings or assist counsel in preparing the case. Cal. Welf. & Inst. Code § 326.7. - Rule of court may include guidelines to the courts for determining when attorney should be appointed rather than a CASA. Cal. Welf. & Inst. Code § 326.5. - To find that child would not benefit from counsel, court must demonstrate that child understands nature of proceedings, is able to communicate and advocate effectively with court, other counsel, other parties, and other professionals involved in case, and would not gain any benefit by being represented. If court makes such a finding, court must make a finding on the record as to each criterion in (1) and appoint a CASA to serve as CAPTA GAL. Cal. R. Ct., R. 5660(b)(1)-(3), (f). <p>Each CASA program shall, if feasible, be staffed by a minimum of one paid administrator. Cal. Welf. & Inst. Code § 102(a).</p> <ul style="list-style-type: none"> - CASA program shall provide volunteers to serve as CASAs. CASA may be appointed in juvenile dependency proceedings and actions to terminate parental rights, as deemed appropriate by juvenile or other superior court judge hearing the matter. Cal. Welf. & Inst. Code § 102(b).

	<ul style="list-style-type: none"> - CASA shall serve at pleasure of the court...CASA shall do all of the following: (1) Provide independent, factual information to the court regarding the cases to which he or she is appointed. (2) Represent the best interests of the children involved, and consider the best interests of the family, in the cases to which he or she is appointed. (3) At the request of the judge, monitor cases to which he or she has been appointed to assure that the court's orders have been fulfilled. Cal. Welf. & Inst. Code § 102(c). - CASA shall...[r]epresent the best interests of the children involved, and consider the best interests of the family, in the cases to which he or she is appointed. Cal. Welf. & Inst. Code § 102(c)(2). - Each CASA is an officer of the court, with the relevant rights and responsibilities that pertain to that role and shall act consistently with the local rules of court pertaining to CASAs. Cal. Welf. & Inst. Code § 103(e). - The appointment of an attorney to represent the child does not prevent the appointment of a CASA volunteer for that child, and courts are encouraged to appoint both an attorney and a CASA for the child in as many cases as possible. Cal. R. Ct., R. 5.660(4). - CASA volunteers must not assume the responsibilities of attorneys for children. Cal. R. Ct., R. 5.660(f)(3). - A judge may appoint a CASA when, in the opinion of the judge, a child requires services which can be provided by the CASA, consistent with the local rules of court. Each CASA is an officer of the court, with the relevant rights and responsibilities that pertain to that role and shall act consistently with the local rules of court pertaining to CASAs. Cal. Welf. & Inst. Code § 103(g). - To accomplish the appointment of a CASA, the judge making the appointment shall sign an order, which may grant the CASA the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer of the court appointed to investigate proceedings on behalf of the court. Cal. Welf. & Inst. Code § 103(h). - Judge...may grant the CASA the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer of the court appointed to investigate proceedings on behalf of the court. Cal. Welf. & Inst. Code § 103(h). - The court shall determine the extent of the CASA's duties in each case. These duties may include an independent investigation of the circumstances surrounding a case to which he or she has been appointed, interviewing and observing the child and other appropriate individuals, and the reviewing of appropriate records and reports. The CASA shall report the results of the investigation to the court. The CASA shall follow the direction and orders of the court and shall provide information specifically requested by the court. Cal Welf. & Inst. Code § 104.
<p>2. Out of Court - Actions to be Taken: <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special</i></p>	<p>.... In addition counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. Cal. Welf. & Inst. Code § 317(e).</p> <p>- If the attorney for child, or CASA acting as CAPTA GAL, learns of any interest or right [to be protected or pursued in other judicial or administrative forums], they attorney or CASA must notify the court immediately and seek instructions from the court as to any appropriate procedures to follow. Cal. R. Ct., R. 5.660(g)(2).</p>

<p><i>needs, negotiate settlements</i></p>	<ul style="list-style-type: none"> - Attorneys or their agents are expected to meet regularly with clients, including clients who are children, regardless of the age of the child or the child's ability to communicate verbally, to contact social workers and other professionals associated with the client's case, to work with other counsel and the court to resolve disputed aspects of a case without contested hearing, and to adhere to the mandated timelines. The attorney for the child must have sufficient contact with the child to establish and maintain an adequate and professional attorney-client relationship. The attorney for the child is not required to assume the responsibilities of a social worker and is not expected to perform services for the child that are unrelated to the child's legal representation. Cal. R. Ct., R. 5.660(d)(4). - The attorney for a child for whom a dependency petition has been filed must provide his or her contact information to the child's caregiver no later than 10 days after receipt of the name, address, and telephone number of the child's caregiver. If the child is 10 years of age or older, the attorney must also provide his or her contact information to the child for whom a dependency petition has been filed no later than 10 days after receipt of the caregiver's contact information. The attorney may give contact information to a child for whom a dependency petition has been filed who is under 10 years of age. Cal. R. Ct., R. 5.660(d)(5).
<p>3. In Court - Active Participation in Hearings: <i>Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</i></p>	<ul style="list-style-type: none"> - Counsel...shall represent the...child at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the...child unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the...child in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship. Cal. Welf. & Inst. Code § 317(d).
<p>4. Post-Hearing: <i>Review court order, communicate order to child, and monitor implementation of orders.</i></p>	<p><i>No explicit legal authority or requirement.</i></p>
<p>5. Appellate Advocacy: <i>Decision to appeal,</i></p>	<ul style="list-style-type: none"> - A notice of appeal on behalf of the child must be filed by the child's trial counsel, GAL, or the child if the child is seeking appellate relief from the trial court's judgment or order. Cal. R. Ct., R. 5.660(1)(b).

<i>withdrawal, participation in appeal, conclusion by appeal.</i>	<p>- In any juvenile dependency proceeding in which a party other than the child files a notice of appeal, if the child's trial counsel or GAL concludes that, for purposes of the appeal, the child's best interests cannot be protected without the appointment of separate counsel on appeal, the child's trial counsel or GAL must file a recommendation in the Court of Appeal requesting appointment of separate counsel. Cal. R. Ct., R. 5.661(c)(1).</p> <p>- Child's trial counsel or GAL should consider the following factors in making a recommendation to the Court of Appeal: (1) An actual or potential conflict exists between the interests of the child and the interests of any respondent; (2) The child did not have an attorney serving as his or her guardian ad litem in the trial court; (3) The child is of a sufficient age or development such that he or she is able to understand the nature of the proceedings and, (A) The child expresses a desire to participate in the appeal, or (B) The child's wishes differ from his or her trial counsel's position; (4) The child took a legal position in the trial court adverse to that of one of his or her siblings, and an issue has been raised in an appellant's opening brief regarding the siblings' adverse positions; (5) The appeal involves a legal issue regarding a determination of parentage, the child's inheritance rights, educational rights, privileges identified in division 8 of the Evidence Code, consent to treatment, or tribal membership; (6) Postjudgment evidence completely undermines the legal underpinnings of the juvenile court's judgment under review, and all parties recognize this and express a willingness to stipulate to reversal of the juvenile court's judgment; (7) The child's trial counsel or guardian ad litem, after reviewing the appellate briefs, believes that the legal arguments contained in the respondents' briefs do not adequately represent or protect the best interests of the child; and (8) The existence of any other factors relevant to the child's best interests. Cal. R. Ct., R. 5.661(f).</p>
6. Cessation of Representation: <i>Contacts post representation, if any.</i>	<i>No explicit legal authority or requirement.</i>
	Organizational and Administrative Supports Provided the Representative
7. General Representation Rules: <i>Administrative structure is clear for appointment, support and accountability of the CR. The CR is independent from the court.</i>	<p>Court appoints the attorney, but only attorneys who have completed minimum training. .Binding rules and procedures are established.</p> <p>Counsel shall have...training that ensures adequate representation of child. Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines. Cal. Welf. & Inst. Code § 317(c).</p> <p>Child is entitled to competent council, meaning “an attorney who is a member in good standing of the State Bar of California, who has participated in training in the law of juvenile dependency, and who demonstrates adequate forensic skills, knowledge and comprehension of the statutory scheme, the purposes and goals of dependency proceedings, the specific statutes, rules of court, and cases relevant to such proceedings, and procedures for filing petitions for extraordinary writs.” The court may require evidence of the competency of any attorney appointed to represent a party in a dependency proceeding. Cal. R. Ct. § 5.660(d)(1)-(2).</p>
8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior</i>	<p>- Only those attorneys who have completed a minimum of eight hours of training or education in the area of juvenile dependency, or who have sufficient recent experience in dependency proceedings in which the attorney has demonstrated competency, may be appointed to represent parties. In addition to a summary of dependency law and related statutes and cases, training and education for attorneys must include information on child development, child abuse and neglect, substance abuse, domestic violence, family reunification and preservation, and reasonable efforts. Within every three years attorneys must complete at least eight hours of continuing education related</p>

<p><i>lawyer mentorship.</i></p>	<p>to dependency proceedings. Cal. R. Ct. R. §5.660(d)(3).</p> <ul style="list-style-type: none"> - Counsel shall have...training that ensures adequate representation of child. Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines. Cal. Welf. & Inst. Code § 317(c). - Child is entitled to competent council, meaning “an attorney who is a member in good standing of the State Bar of California, who has participated in training in the law of juvenile dependency, and who demonstrates adequate forensic skills, knowledge and comprehension of the statutory scheme, the purposes and goals of dependency proceedings, the specific statutes, rules of court, and cases relevant to such proceedings, and procedures for filing petitions for extraordinary writs.” The court may require evidence of the competency of any attorney appointed to represent a party in a dependency proceeding. Cal. R. Ct. § 5.660(d)(1)-(2). - The Judicial Council, through its CASA Advisory Committee, shall adopt guidelines for the screening of CASA volunteers, which shall include personal interviews, reference checks, checks for records of sex offenses and other criminal records, information from DMV, and other information as the Judicial Council deems appropriate. Cal. Welf. & Inst. Code § 102(e). - The Judicial Council, through its rules and regulations, shall require an initial and ongoing training program...to all persons acting as a CASA, including, but not limited to, each of the following: (1) Dynamics of child abuse and neglect. (2) Court structure, including juvenile court laws regarding dependency. (3) Social service systems. (4) Child development. (5) Interviewing techniques. (6) Report writing. (7) Roles and responsibilities of a CASA. (8) Rules of evidence and discovery procedures. (9) Problems associated with verifying reports. Cal. Welf. & Inst. Code § 102(d). - Persons acting as a CASA shall be individuals who have demonstrated an interest in children and their welfare. Each CASA shall participate in a training course conducted under the rules and regulations adopted by the Judicial Council and in ongoing training and supervision throughout his or her involvement in the program. Each CASA shall be evaluated before and after initial training to determine his or her fitness for these responsibilities. Ongoing training shall be provided at least monthly. Cal. Welf. & Inst. Code § 103(a) - Each CASA shall commit a minimum of one year of service to a child until a permanent placement is achieved for the child or until relieved by the court, whichever is first. At the end of each year of service, the CASA, with the approval of the court, may recommit for an additional year. Cal. Welf. & Inst. Code § 103(b). - A CASA shall have no associations that create a conflict of interest with his or her duties as a CASA. Cal. Welf. & Inst. Code § 103(c). - Each CASA shall be sworn in by a superior court judge or commissioner before beginning his or her duties. Cal. Welf. & Inst. Code § 103(f). - Each CASA program shall, if feasible, be staffed by a minimum of one paid administrator. The staff shall be directly accountable to the presiding juvenile court judge and the CASA program board of directors, as applicable. Cal. Welf. & Inst. Code § 102(a).
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided</i></p>	<ul style="list-style-type: none"> - The court may fix the compensation for the services of appointed counsel. Cal. Welf. & Inst. Code § 317(c).

<i>expenses.</i>	
10. Caseload Levels: <i>Caseloads are of a manageable size.</i>	<ul style="list-style-type: none"> - Rule of court may include guidelines to the courts for determining...caseload standards for GALs. Cal. Welf. & Inst. Code §326.5. - Counsel shall have a caseload...that ensures adequate representation of child. Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines. Cal. Welf. & Inst. Code § 317(c). - The attorney for a child must have a caseload that allows the attorney to perform the duties required by section 317(e) and this rule, and to otherwise adequately counsel and represent the child. To enhance the quality of representation afforded to children, attorneys appointed under this rule must not maintain a maximum full-time caseload that is greater than that which allows them to meet the requirements stated in (3), (4), and (5). Cal. R. Ct., R. 5.660(d)(6). - The caseload of a CASA volunteer acting as a CAPTA GAL must be limited to 10 cases. A case may include siblings, absent a conflict. Cal. R. Ct., R. 5.660(f)(2).